IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1588 OF 2007

Shri.Sandeep Ramdas Bodhawade. ...Applicant.

Versus

The State of Maharashtra ...Respondent.

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Mr.J.N.Pawar, Adv. for the Applicant.
Mrs.A.S.Pai, APP, for the State.

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CORAM : SMT.V.K.TAHILRAMANI,J.

DATED : 25th June, 2007.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned APP for the State.

2. The applicant is seeking bail in C.R.No.278 of 2006 of Panchavati Police Station, Nashik. The said case is under Section 302 of IPC.

3. It is the prosecution case that one Nandu Salve and Sripad Suryawanshi along with 2-3 others assaulted deceased Krishna. There are three eye witnesses to the incident i.e. Nanubai, Hiraman and Rajendra. All these witnesses have stated the names of the above two coaccused i.e. Nandu Salve

and Sripad Suryawanshi (non-applicants) and they have further stated that when they took the deceased to the hospital, they learnt that the applicant was also one of the assailants.

4. The incident has occurred on 7.8.2006. The statements of Hiraman and Nanubai have been recorded on 10.8.2006 and the statement of Rajendra has been recorded on 14.8.2006. In all these statements they have stated that after they took the deceased to hospital, they learnt that the applicant was one of the assailants.

5. The learned APP has submitted that the statements of Nanubai and Rajendra have been again recorded on 1.9.2006, wherein they have stated that the applicant was one of the assailants and he was holding a hockey stick. It is pertinent to note that the witness Nanubai in her statement dated 10.8.2006 has stated that besides Shripad Suryawanshi and Nandu Salve, two unknown persons were assaulting her son. Rajendra also in his statement dated 14.8.2006 and Hiraman in his statement dated 10.8.2006 have stated that 2-3 other persons were assaulting the deceased.

However, suddenly in their statements recorded on 1.9.2006, they have stated that the applicant was also one of the assailants. It is pertinent to note that the statement dated 1.9.2006 has not been preceded by any TIP. The learned APP on instructions states that no TIP has been held in respect of the applicant. In such case, one fails to comprehend as to how suddenly in the statement dated 1.9.2006, the witnesses stated that they have seen the applicant assaulting the deceased.

6. As far as applicant-Sandeep is concerned there is no recovery at his instance. Looking to these facts, I am inclined to grant bail to the applicant.

7. The applicant - Sandeep Ramdas Bodhawade to be released on bail in the sum of Rs.20,000/- with one or two sureties to make up the said amount. The applicant shall report to Panchavati Police Station, Nashik once in a fortnight, till conclusion of the trial.

8. Application is disposed of accordingly.

(SMT.V.K.TAHILRAMANI,J.)